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09/370,663	08/06/1999	DANIEL H. ABELOW	03058/004005	8345

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EXAMINER

DIXON, THOMAS A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/370,663

Applicant(s)

ABELOW, DANIEL H.

Examiner

Thomas A. Dixon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-51, 53-63, 71-107, 110, 111, 113-132 and 134-168 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-51, 53-54, 57-63, 71-91, 93-96, 98-107, 110, 111, 113-132 and 134-168 is/are rejected.
- 7) ☒ Claim(s) 55, 56, 92 and 97 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claim 168 has been added.
2. This is a RCE of applicant's earlier Application No. 09/370,663.

Response to Amendments and Arguments

3. Applicant's arguments filed 8 April 2003 have been fully considered but they are not persuasive.
4. Applicant is correct regarding the 112 rejection of claim 165 rather than 163, the excessive number of claims caused the examiner's confusion.

As per Claims 48 and 127, the rejections are below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 90, 93-96, 127, 129-132, 134-135 are rejected under 35 U.S.C. 102(e) as being anticipated by Eckert, Jr. et al (4,442,501).

As per claim 90.

Eckert Jr. et al ('501) discloses:

units of a telephonic device that are used by respective users in different locations, see figure 1 and column 11, lines 10-14;

a user interface which is part of each of the units of the commodity and provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity for generating information about use of the unit of the commodity by a user, see figure 2 and column 5, lines 13-68;

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a communication element that is associated with each of the units of the commodity and carries results of the two-way local interactions from each of the units of the commodity to a central location, see figure 6 (106);

software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103) and sends probes to each of the units of the commodity, see column 1, lines 52-61, column 11, lines 5-24, column 5, lines 59-68 and column 6, lines 46-50.

As per Claim 93, 129.

Eckert Jr. et al ('501) further discloses:

the user interface is electronically triggered based on user behaviors to generate two-way interactions with each of the users, each of the interactions relating to a corresponding specific one of the behaviors, see column 5, lines 13-68.

As per Claim 94, 131.

Eckert Jr. et al ('501) further discloses:

the software is further configured to provide access to the collection of results to the users of the commodity, column 5, lines 13-68.

As per Claim 95, 132.

Eckert Jr. et al ('501) further discloses:

the software is further configured to provide access to the collection of results to the vendors of the commodity, see column 11, lines 23-50.

As per Claim 96.

Eckert Jr. et al ('501) further discloses:

the software is further configured to provide access to the collection of results to third parties, column 1, lines 19-23 and 52-68.

As per claim 127.

Eckert Jr. et al ('501) discloses:

units of a commodity that are used by respective users in different locations, see figure 1;

a user interface which is part of each of the units of the commodity and provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity for generating information about use of the unit of the commodity by a user, see figure 2 and column 5, lines 13-68;

a communication element that is associated with each of the units of the commodity and carries results of the two-way local interactions from each of the units of the commodity to a central location, see figure 6 (106);

software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103) and sends probes to each of the units of the commodity, see column 1, lines 52-61, column 11, lines 5-24, column 5, lines 59-68 and column 6, lines 46-50.

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As per Claim 130.

Eckert Jr. et al ('501) further discloses:

the interactions are triggered based on repeated use of a feature of a unit of the commodity by the user, see column 5, lines 13-68.

As per Claim 134.

Eckert Jr. et al ('501) further discloses:

the results of the interactions are forwarded from the central location to the remote server for analysis, see column 11, lines 23-50 .

As per Claim 135.

Eckert Jr. et al ('501) further discloses:

the two way interaction provides instructions on how to use the commodity, see column 5, lines 59-68.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 48-51, 54, 58, 60-62, 75-79, 82-85, 88, 148-163, 165-168 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert Jr. et al (4,442,501).

As per Claim 48.

Eckert Jr. et al ('501) discloses:

units of a commodity that are used by respective users in different locations, see figure 1;

a user interface which is part of each of the units of the commodity, provides a medium for two-way local interaction between one of the users and the corresponding units of the commodity, configured to elicit information from a user, see figure 2 and column 5, lines 59-68;

a memory that is associated with each of the units of the commodity and stores results of the two-way interaction, see figure 3 (60 or 80) and column 5, line 59 – column 6, line 45;

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a communication element that is associated with each of the units of the commodity and carries results of the two-way local interaction from each of the units of the commodity to a central location, see figure 6 (106);

software that manages the interactions of the users in different locations and collection of the results of the interactions at the central location, see figure 6 (102, 103).

Eckert Jr. et al ('501) does not disclose the user provides information about his perception of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user perceptions regarding the commodity as an extension of known information gathering techniques.

As per Claim 49.

Eckert Jr. et al ('501) further discloses:

the user interface is electronically triggered based on user behaviors to generate two-way interactions with each of the users, each of the interactions relating to a corresponding specific one of the behaviors, see column 4, line 67 – column 5, line 58.

As per Claim 50.

Eckert Jr. et al ('501) further discloses:

the interactions are triggered to occur based on repeated uses of a feature of a unit of the commodity, see column 6, lines 17-43.

As per Claim 51.

Eckert Jr. et al ('501) further discloses:

the user interface comprises a part if a functional user interface of the unit of the commodity that is used to control features of the commodity, see column 5, lines 1-12.

As per Claim 54.

Eckert Jr. et al ('501) further discloses:

the results of the interactions are forwarded from the central location to a remote server for analysis, see column 11, lines 5-50.

As per Claim 58.

Eckert Jr. et al ('501) further discloses:

the two way interaction provides instructions on how to use the commodity, see column 6, lines 29-43.

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As per Claim 60.
Eckert Jr. et al ('501) further discloses:
the answers are forwarded to the vendor of the commodity, see column 5, lines 37-68.

As per Claim 61.
Eckert Jr. et al ('501) further discloses:
the two-way interaction is mediated by an publicly or privately accessible on-line computerized information service, see column 11, lines 10-50.

As per Claim 62.
Eckert Jr. et al ('501) further discloses:
presenting the user information in one or more of the following styles: text, lists, charts, views, arrangements, hierarchies, graphical maps, sample extracts, abstracts summary descriptions or hypertext, see figure 2 (50).

As per Claim 75.
Eckert Jr. et al ('501) further discloses:
the user interface includes a console displaying text or graphics, see figure 2.

As per Claim 76.
Eckert Jr. et al ('501) further discloses:
the console comprises a display of a computer, see figure 3 (59, 60, 20).

As per Claim 77.
Eckert Jr. et al ('501) further discloses:
the software is configured to disclose access to collection results to vendors of the commodity, see column 11, lines 5-50.

As per Claim 78.
Eckert Jr. et al ('501) further discloses:
the software is configured to disclose access to collection results to the users of the commodity, see column 5, lines 13-24.

As per Claim 79.
Eckert Jr. et al ('501) further discloses:
the software is configured to provide access to the collection of results to third parties, see column 11, lines 23-24.

As per Claim 82.
Eckert Jr. et al ('501) further discloses:
units of commodity store probes that elicit information from the respective users, see column 5, lines 59-68.

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As per Claim 83.

Eckert Jr. et al ('501) further discloses:

the software that manages the interactions of the users sends the probes to each of the units of the commodity, see column 1, line 52 – column 2, line 7 and column 5, line 59 – column 6, line 2.

As per Claim 84.

Eckert Jr. et al ('501) further discloses:

the information about the commodity comprises value information, see column 5, lines 15-24.

As per Claim 85.

Eckert Jr. et al ('501) further discloses:

the value information comprises usage logs, see column 5, lines 15-24.

As per Claim 88.

Eckert Jr. et al ('501) further discloses:

the information guides a user's interaction with the commodity, see column 5, lines 59-68.

As per Claim 148.

Eckert Jr. et al ('501) further discloses:

the two way local interaction enables the user to request support, see column 1, lines 60-61.

As per Claim 149.

Eckert Jr. et al ('501) does not disclose the user provides information about his perception of a problem relating to use of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user perceptions of a problem relating to use of the commodity as an extension of known information gathering techniques.

As per Claim 150.

Eckert Jr. et al ('501) does not disclose the user provides information includes suggestions of the user to solve the problem relating to use of the commodity.

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This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as user suggestions to solve the problem relating to use of the commodity as an extension of known information gathering techniques.

As per Claim 151.

Eckert Jr. et al ('501) does not disclose the user provides information includes suggestions of the another user to solve the problem relating to use of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to disseminate data such as user suggestions to solve the problem relating to use of the commodity as an extension of known information dissemination techniques.

As per Claim 152.

Eckert Jr. et al ('501) further discloses:

the communication element also carries information from a passive probe that monitors the user's use of the commodity, see column 7, lines 3-12 and column 10, lines 36- 52.

As per Claim 153.

Eckert Jr. et al ('501) further discloses:

the user interface is triggered based performance with respect to his use of the commodity, see column 7, lines 3-12.

As per Claim 154.

Eckert Jr. et al ('502) further discloses the user interface is triggered based on premature termination of use of the commodity, see column 7, lines 12-18.

As per Claim 155.

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Eckert Jr. et al ('502) further discloses the user interface is triggered based on an exception resulting from use of the commodity, see column 7, lines 12-18.

As per Claim 156.

Eckert Jr. et al ('501) does not disclose the user provides information about his needs with respect to use of the commodity.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as about his needs with respect to use of the commodity as an extension of known information gathering techniques.

As per Claim 157.

Eckert Jr. et al ('501) does not disclose the user provides information about his perception of competing commodities.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as about his perception of competing commodities as an extension of known information gathering techniques.

As per Claim 158.

Eckert Jr. et al ('501) further discloses the two way local interactions comprise a transaction for sale of a product, see column 1, lines 52-68.

As per Claim 159.

Eckert Jr. et al ('501) further discloses:
the two way local interactions comprise a request for servicing of the commodity by the user, see column 1, lines 60-61.

As per Claim 160.

Eckert Jr. et al ('501) does not disclose the commodity is a demonstration unit.

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This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to provide demonstration units of commodities to users to encourage user dependence upon the commodity and therefore increase sales of the commodity or associated products.

As per Claim 161.

Eckert Jr. et al ('501) further discloses:

the communication element also carries objective information about the user's use of the commodity, see column 5, lines 13-27, column 7, lines 7-12 and lines 50-63 and column 10, lines 16-22.

As per Claim 162.

Eckert Jr. et al ('501) further discloses:

the two-way interactions occur while the user is using the commodity, see column 5, lines 13-27.

As per Claim 163.

Eckert Jr. et al ('501) further discloses:

the software store the results of the interactions with information a trigger event that initiated each respective interaction, see column 7, lines 12-43.

As per Claim 165.

Eckert Jr. et al ('501) further discloses:

the software distributes the results of the interactions to the users as a function of when the interactions occurred, see column 5, lines 13-68.

As per Claim 166.

Eckert Jr. et al ('501) further discloses the software stores information for each interaction, see column 5, lines 13-24, but does not disclose the information is about the usefulness of the interaction to other users.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

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Therefore it would have been obvious to one of ordinary skill at the time the invention was made to collect data such as information regarding the usefulness of the interaction to others as an extension of known information gathering techniques.

As per Claim 167.

Eckert Jr. et al ('501) further discloses:
each user can filter information in the collection according to the user's own needs or desires, see column 5, lines 13-24.

As per Claim 168.

Eckert Jr. et al ('501) further discloses:
the information in the stored probes includes questions for respective users, see column 5, lines 13-24.

7. Claims 71-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert Jr. et al (4,442,501) or Von Kohorn (4,876,592) in view of Schoenbrun

"EASYNET..."

As per Claim 71.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56.

Eckert Jr. et al ('501) and Von Kohorn ('592) do not disclose a voice recorder.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) or Van Kohorn ('592) to include the sound recording capability taught by Schoenbrun for the benefit of customer service and cost savings.

As per Claim 72.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56 and modem or direct line communication, see column 11, lines 10-14.

Eckert Jr. et al ('501) and Von Kohorn (592) do not disclose a commodity configured to store voice or sound information.

Official notice is taken that voice recording devices are well known, in analog or digital form such as answering machines and tape recorders. It is also well known to store messages, such as email and voicemail for later scheduled distribution.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

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Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) or Van Kohorn ('592) to include the sound recording capability taught by Schoenbrun either at the user's machine or the vendor's machine for the benefit of customer service and cost savings.

As per Claim 73.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56 and modem or direct line communication, see column 11, lines 10-14.

Eckert Jr. et al ('501) and Von Kohorn ('592) do not disclose a commodity configured to digitize voice or sound information.

Official notice is taken that voice recording devices are well known, in analog or digital form such as answering machines and tape recorders. It is also well known to store messages, such as email and voicemail for later scheduled distribution.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) or Van Kohorn ('592) to include the sound recording capability taught by Schoenbrun either in analog or digital format for the benefit of customer service and cost savings.

8. Claim 74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert Jr. et al (4,442,501) in view of Schoenbrun "EASYNET..."

As per Claim 74.

Eckert Jr. et al ('501) further discloses a telephone answerback unit, see column 1, lines 52-56 and modem or direct line communication, see column 11, lines 10-14.

Eckert Jr. et al ('501) do not disclose voice communication.

Schoenbrun teaches a system which has online help by typing SOS at any menu and the ability to leave voice messages or speak to a live operator, see page 53, column 3, line 2 – page 54, column 1, line 24, for the benefit of customer service and cost savings.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Eckert Jr. et al ('501) to include the live operator contact or sound recording capability taught by Schoenbrun for the benefit of customer service and cost savings.

9. Claims 48, 51, 53, 57-59, 62-63, 74-76, 81-91, 110-111, 119-120, 124-128, 135-138, 140-142 146, 148-151, 153, 156-158, 160, 162 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Kohorn (4,876,592).

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As per Claim 48.

Von Kohorn ('591) discloses:

units of a commodity that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes user "opinions," see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35,

a memory that is associated with each of the units of the commodity and stores results of the two-way local interaction, see column 4, lines 57-59;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity.

As per Claim 51.

Von Kohorn ('591) further discloses the user interface comprises part of a functional user interface of the unit of the commodity that is used to control features of the commodity, see figures 1, 3, 5 (44).

As per Claim 53.

Von Kohorn ('591) further discloses the units of the interface comprise telephone extension equipment and the central location comprises a private branch exchange or other central network facility, see figure 6 (280).

As per Claims 57.

Von Kohorn ('591) further discloses the units of the interface comprise consumer television equipment, see figure 6 (220).

As per Claims 59.

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Von Kohorn ('591) further discloses posing questions to a user on a television screen and receiving answers from the user expressed through a keypad or a hand-held remote, see figure 3 (28, 44).

As per Claims 62.

Von Kohorn ('591) further discloses the interface presents information in one or more of the following styles: text, lists, see abstract and column 8, lines 32-54.

As per Claim 58, 63, 111, 124, 126, 135, 137, 148

Von Kohorn ('591) further discloses the system can be used to provide multipart questions, forms or tests, and instructions on how to use the commodity to increase the performance or satisfaction with the commodity, see column 8, lines 55-63.

As per Claim 74.

Von Kohorn ('591) further discloses the two way interaction comprises voice communication, see figure 6 (280).

As per Claims 75.

Von Kohorn ('591) further discloses the interface includes a console displaying text or lists, see abstract and column 8, lines 32-54.

As per Claim 76.

Von Kohorn ('591) further discloses the console comprises a phone, see figure 6 (280) or hand-held device, see figure 3 (44).

As per Claim 81, 119, 128.

Von Kohorn ('592) does not disclose use of hypertext.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to use an industry standard for display of text, graphics, etc as a normal progression of the art to provide a system that is easily developable and usable by the widest audience.

As per Claim 82, 146.

Von Kohorn ('591) further discloses the units of the commodity store probes that elicit information from the users, see column 8, lines 32-54.

As per Claim 83.

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Von Kohorn ('591) further discloses the software that manages the interactions sends probes to units of the commodity, see column 7, lines 38-67.

As per Claim 84.

Von Kohorn ('591) further discloses the responses are "opinions," see column 9, lines 13-17, which is seen to be value information.

As per Claim 85.

Von Kohorn ('591) further discloses storage of "logs" of the interactions, see column 12, lines 37-55.

As per Claim 86, 153.

Von Kohorn ('591) further discloses the responses include user comprehension, see column 10, lines 8-16.

As per Claim 87.

Von Kohorn ('591) further discloses the responses include user performance, see column 10, lines 8-16.

As per Claim 88.

Von Kohorn ('591) further discloses the value information guides the user's interactions, see column 8, lines 55-63.

As per Claim 89.

Von Kohorn ('591) further discloses the responses are "opinions," see column 9, lines 13-17, which is seen to include information about future product design.

As per Claim 90.

Von Kohorn ('591) discloses:
units of a telephonic device, that are used by respective users in different locations, see figure 6 (280);
a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes "opinions," which are seen to include steps that a vendor could take to improve the user's satisfaction see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35 and training or interactions to present actions that the user could take to increase performance or satisfaction, see column 8, lines 55-63,
a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;
software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

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To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity.

As per Claim 91.

Von Kohorn ('591) further discloses the units of the interface comprise telephone extension equipment and the central location comprises a private branch exchange or other central network facility, see figure 6 (280).

As per Claim 110.

Von Kohorn ('591) discloses:

units of a commodity that comprise television equipment, that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes "opinions," which are seen to include steps that a vendor could take to improve the user's satisfaction see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35 and training or interactions to present actions that the user could take to increase performance or satisfaction, see column 8, lines 55-63,

a memory that is associated with each of the units of the commodity and stores results of the two-way local interaction, see column 4, lines 57-59;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity.

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As per Claim 120.

Von Kohorn ('591) discloses:

units of a commodity that are used by respective users in different locations, see figure 6 (280);

a user interface which provides a medium for two-way local interaction between the user and the commodity for generating information about use of the commodity by the user, information from a user is seen to "opinions," see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35,

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20 Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444; 251 F.2d 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F.2d 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity.

Von Kohorn ('592) does not disclose use of hypertext.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to use an industry standard for display of text, graphics, etc as a normal progression of the art to provide a system that is easily developable and usable by the widest audience.

As per Claim 125.

Von Kohorn ('591) further discloses the interactions are moderated by a publicly or privately accessible information service, see column 4, lines 23-54.

As per Claim 127.

Von Kohorn ('591) discloses:

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units of a commodity that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes "opinions," see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35,

a memory that is associated with each of the units of the commodity and stores results of the two-way local interaction, see column 4, lines 57-59;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

The limitation to the information as the user's perception of the commodity is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F 2d 1381, 217 USPQ 401, 101 (Fed. Cir. 1983).

To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity and also obvious that any information could be collected as needed or desired by the users of the Von Kohorn system as business needs changed.

As per Claim 136.

Von Kohorn ('591) discloses:

units of a commodity that comprise television equipment, that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes "opinions," see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35,

a memory that is associated with each of the units of the commodity and stores results of the two-way local interaction, see column 4, lines 57-59;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-

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54 and column 13, line 27- column 14, line 20 Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see In re Larson, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); In re Wolf, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see Nerwin V Erlichman, 168 USPQ 177, 179 (BdPatApp&Int 1969); In re Dulberg, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by In Re Larson for the benefit of more compact size of the commodity.

As per Claims 138.

Von Kohorn ('591) further discloses posing questions on a television screen and receiving answers from the user expressed through a keypad or a hand-held remote, see figure 3 (28, 44).

As per Claim 140.

Von Kohorn ('591) discloses:

units of a commodity that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35 and instructional information about use of the commodity, see column 8, lines 55-63;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see In re Larson, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); In re Wolf, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see Nerwin V Erlichman, 168 USPQ 177, 179 (BdPatApp&Int 1969); In re Dulberg, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by In Re Larson for the benefit of more compact size of the commodity.

As per Claim 141.

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Von Kohorn ('591) discloses:

units of a commodity that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35 and the responses include user comprehension or performance, see column 10, lines 8-16.

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity.

As per Claim 142.

Von Kohorn ('591) discloses:

units of a commodity that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes user "opinions," see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35, which is seen to include value information about marketing or future product design,

a memory that is associated with each of the units of the commodity and stores results of the two-way local interaction, see column 4, lines 57-59;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see *In re Larson*, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); *In re Wolf*, 116 USPQ 443, 444;

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251 F2nd 854 (CCPA) 1958 and to make separable, see *Nerwin V Erlichman*, 168 USPQ 177, 179 (BdPatApp&Int 1969); *In re Dulberg*, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by *In Re Larson* for the benefit of more compact size of the commodity.

As per Claim 149.

Von Kohorn ('591) further discloses the responses are "opinions," see column 9, lines 13-17, which is seen to include the perception of a problem relating to use of the commodity.

As per Claim 150.

Von Kohorn ('591) further discloses the hints, see column 8, lines 32-63.

As per Claim 151.

Von Kohorn ('591) further discloses the hints, see column 8, lines 32-63 which are seen to include suggestions of another user to solve the problem.

As per Claim 156.

Von Kohorn ('591) further discloses the responses are "opinions," see column 9, lines 13-17, which is seen to include his need with respect to use of the commodity.

As per Claim 157.

Von Kohorn ('591) further discloses the responses are "opinions," see column 9, lines 13-17, which is seen to include his perception of competing commodities.

As per Claim 158.

Von Kohorn ('591) further discloses the two way local interactions comprise a transaction for sale of a product, see column 2, line 33 – column 3, line 25.

As per Claim 160.

Von Kohorn ('592) does not disclose the commodity is a demonstration unit.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to provide demonstration units of commodities to users to

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encourage user dependence upon the commodity and therefore increase sales of the commodity or associated products.

As per Claim 162.

Von Kohorn ('592) further discloses:
the two-way interactions occur while the user is using the commodity, see abstract.

10. Claims 60, 77-79, 98-103, 104-107, 113-118, 121-123 129-132, 134 139, 143-145 147 152 154-155, 159 161 163-166 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Kohorn (4,876,592) in view of Eckert Jr. et al (4,442,501).

As per Claim 60, 77, 143.

Von Kohorn ('592) does not teach the answers are forwarded to the vendor of the commodity.

Eckert Jr. et al ('501) teaches a commodity that sends answers to interactive responses to the vendor of the commodity, see column 5, lines 37-68, to enable the transfer of funds to an account held at the commodity.

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to send the answers to the vendor of the commodity as taught by Eckert Jr et al ('501) to enable the transfer of funds to an account held at the commodity (in this case possibly a coupon).

As per Claim 78, 107, 117, 123, 131, 144.

Von Kohorn ('592) does not teach access to the collection results to the users.

Eckert Jr. et al ('501) teaches the software is configured to disclose access to collection results to the users of the commodity, see column 5, lines 13-24 for the benefit of users to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to allow access of the collection results as taught by Eckert Jr. et al ('501) for the benefit of users to be aware of the condition of the commodity's condition.

As per Claim 79, 145.

Von Kohorn ('592) does not teach access to collection results to the third parties the commodity.

Eckert Jr. et al ('501) teaches the software is configured to provide access to the collection of results to third parties, see column 11, lines 23-24 for the benefit of government regulators to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to allow

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access of the collection results as taught by Eckert Jr. et al ('501) for the benefit of government regulators to be aware of the condition of the commodity's condition.

As per Claim 98.

Von Kohorn ('591) discloses:

units of a commodity that comprise television equipment, that are used by respective users in different locations, see figure 3;

a user interface which provides a medium for two-way local interaction between the user and the commodity, and is configured to elicit information from a user which includes "opinions," which are seen to include steps that a vendor could take to improve the user's satisfaction see column 3, lines 55-64, column 4, lines 23-59, column 9, lines 13-35 and training or support, see column 8, lines 55-63,

a memory that is associated with each of the units of the commodity and stores results of the two-way local interaction, see column 4, lines 57-59;

a communication element that carries results of the two-way local interaction from the commodity to a remote server, see column 4, lines 51-54;

software that manages the interactions of the users in different locations and collection of the results of the interactions at a central location, see column 4, lines 23-54 and column 13, line 27- column 14, line 20.

Von Kohorn does not disclose the language "which is part of the commodity" or that the information is about the user's perception of the commodity.

To make integral or separable are both obvious; to make integral, see In re Larson, 144 USPQ 347, 349; 339 us 965 (CCPA 1965); In re Wolf, 116 USPQ 443, 444; 251 F2nd 854 (CCPA) 1958 and to make separable, see Nerwin V Erlichman, 168 USPQ 177, 179 (BdPatApp&Int 1969); In re Dulberg, USPQ 348, 349, 289 F2nd 522 (CCPA 1961).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to make the system of Von Kohorn integral to the commodity as taught by In Re Larson for the benefit of more compact size of the commodity.

Von Kohorn ('591) does not disclose providing access to the collection results to a third party.

Eckert Jr. et al ('501) teaches the software is configured to provide access to the collection of results to third parties, see column 11, lines 23-24 for the benefit of government regulators to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to allow access of the collection results as taught by Eckert Jr. et al ('501) for the benefit of government regulators to be aware of the condition of the commodity's condition.

As per Claim 99.

Von Kohorn ('591) does not disclose software is configured to forward the results to third parties.

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Eckert Jr. et al ('501) teaches the software is configured to forward the results to third parties, see column 11, lines 23-24 for the benefit of government regulators to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to forward results as taught by Eckert Jr. et al ('501) for the benefit of government regulators to be aware of the condition of the commodity's condition.

As per Claim 100, 134, 147.

Von Kohorn ('591) does not disclose results are forwarded to a remote server for analysis.

Eckert Jr. et al ('501) teaches to forward the results to a remote server, see column 11, lines 23-24 for the benefit of government regulators or the commodity's developer to be aware of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to forward results as taught by Eckert Jr. et al ('501) for the benefit of government regulators or the commodity's developer to be aware of the commodity's condition.

As per Claim 101.

Von Kohorn ('591) does not disclose results are forwarded to a remote server for analysis.

Eckert Jr. et al ('501) teaches to forward the results to a remote server, see column 11, lines 23-24 for the benefit of the commodity's vendor to be aware of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to forward results as taught by Eckert Jr. et al ('501) for the benefit of the commodity's vendor to be aware of the commodity's condition.

As per Claim 102, 118, 132.

Von Kohorn ('591) does not disclose third party is a vendor of the commodity.

Eckert Jr. et al ('501) teaches the third party is the vendor of the commodity, see column 11, lines 23-24 for the benefit of the commodity's vendor to be aware of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to forward results as taught by Eckert Jr. et al ('501) for the benefit of the commodity's vendor to be aware of the commodity's condition.

As per Claim 103.

Von Kohorn ('591) does not disclose the third party is the commodity's designer.

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Eckert Jr. et al ('501) teaches the third party is the designer of the commodity, see column 11, lines 23-24 for the benefit of the commodity's designer to be aware of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Von Kohorn ('592) to forward results as taught by Eckert Jr. et al ('501) for the benefit of the commodity's designer to be aware of the commodity's condition.

As per Claim 104.

Von Kohorn ('592) does not disclose use of hypertext.

This limitation is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to use an industry standard for display of text, graphics, etc as a normal progression of the art to provide a system that is easily developable and usable by the widest audience.

As per Claim 105, 113, 121, 129.

Von Kohorn ('591) does not disclose the interactions are triggered based on user behaviors to generate two-way interactions with each of the users, each of the interactions relating to a corresponding specific one of the behaviors.

Eckert Jr. et al ('501) teaches the interactions are triggered based on user behaviors to generate two-way interactions with each of the users, each of the interactions relating to a corresponding specific one of the behaviors, see column 4, line 67 – column 5, line 58 for the benefit of users to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to trigger the interactions based on a specific one of the user's behaviors as taught by Eckert Jr. et al ('501) for the benefit of users to be aware of the condition of the commodity's condition.

As per Claim 106, 122, 130.

Von Kohorn ('591) does not disclose the interactions are triggered to occur based on repeated uses of a feature of a unit of the commodity

Eckert Jr. et al ('501) teaches the interactions are triggered to occur based on repeated uses of a feature of a unit of the commodity, see column 6, lines 17-43 for the benefit of users to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to trigger the interactions to occur based on repeated use

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of a feature of the commodity, as taught by Eckert Jr. et al ('501) for the benefit of users to be aware of the condition of the commodity's condition.

As per Claim 114.

Von Kohorn ('591) further discloses the responses include user comprehension, see column 10, lines 8-16.

As per Claim 115, 155.

Von Kohorn ('591) does not disclose the trigger is an exception resulting from use of the commodity.

Eckert Jr. et al ('501) teaches the trigger is an exception resulting from use of the commodity, see column 3, lines 29-44 and column 7, lines 12-18 for the benefit of users to be aware of the condition of the commodity's condition.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to trigger the interactions based on an exception resulting from use of the commodity, as taught by Eckert Jr. et al ('501) for the benefit of users to be aware of the condition of the commodity's condition.

As per Claim 116.

Von Kohorn ('591) does not disclose the trigger is a user initiated help request during use of the commodity.

Eckert Jr. et al ('501) teaches the trigger is a request during use of the commodity, see column 1, lines 60-68 for the benefit of users to be continue to use the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to trigger the interactions based on an exception resulting from use of the commodity, as taught by Eckert Jr. et al ('501) for the benefit of users to be able to use the commodity.

As per Claim 152.

Von Kohorn ('591) does not disclose a passive probe that monitors the user's use of the commodity.

Eckert Jr. et al ('501) teaches passive probes of the commodity, see column 1, lines 19-31 and line 52 – column 2, line 7 for the benefit of keeping the government authorities and the commodity's vendors aware of uses of the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to trigger the interactions based on an exception resulting from use of the commodity, as taught by Eckert Jr. et al ('501) for the benefit of keeping the government authorities and the commodity's vendors aware of uses of the commodity.

As per Claim 154.

Von Kohorn ('591) does not disclose the trigger is based on premature termination of use of the commodity.

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Eckert Jr. et al ('502) teaches the user interface is triggered based on premature termination of use of the commodity, see column 7, lines 12-18 for the benefit of users to be continue to use the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to trigger the interface based on premature termination of use of the commodity, as taught by Eckert Jr. et al ('501) for the benefit of users to be able to use the commodity.

As per Claim 159.

Von Kohorn ('591) does not disclose a request for servicing of the commodity by the user.

Eckert Jr. et al ('501) teaches the two way local interactions comprise a request for servicing of the commodity by the user, see column 1, lines 60-61 for the benefit of users to be continue to use the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to request service, as taught by Eckert Jr. et al ('501) for the benefit of users to be able to use the commodity.

As per Claim 161.

Von Kohorn ('591) does not disclose the communication element also carries objective information about the user's use of the commodity.

Eckert Jr. et al ('501) teaches the communication element also carries objective information about the user's use of the commodity, see column 5, lines 13-27, column 7, lines 7-12 and lines 50-63 and column 10, lines 16-22 for the benefit of informing the government regulators and the commodity vendor about use of the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to gather objective information about the user's use of the commodity for the benefit of keeping the government authorities and the commodity's vendors aware of uses of the commodity.

As per Claim 163.

Von Kohorn ('591) does not disclose the software store the results of the interactions with information a trigger event that initiated each respective interaction.

Eckert Jr. et al ('501) teaches the software store the results of the interactions with information a trigger event that initiated each respective interaction, see column 7, lines 12-43 for the benefit of informing the government regulators and the commodity vendor about use of the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to store the results of the interactions with information a trigger event that initiated each respective interaction for the benefit of keeping the government authorities and the commodity's vendors aware of uses of the commodity.

As per Claim 164.

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Von Kohorn ('592) further discloses the probes are sent to the units of the commodity based on frequency of contact between respective units and the central location, see column 16, lines 18-31.

As per Claim 165.

Von Kohorn does not disclose the software distributes the result of the interactions to the users as a function of when the interactions occurred.

Eckert Jr. et al ('501) teaches the software distributes the results of the interactions to the users as a function of when the interactions occurred, see column 5, lines 13-68 for the benefit of providing instruction to the user in the use of the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to distribute the result of the interactions to the users as a function of when the interactions occurred as taught by Eckert Jr. et al ('501) for the benefit of providing instruction to the user in the use of the commodity.

As per Claim 166.

Von Kohorn (592) further discloses the software stores information for each interaction, see column 9, lines 13-38, and "opinions," which are seen to include information about the usefulness of the interaction to other users.

As per Claim 167.

Von Kohorn (592) does not disclose each user can filter information in the collection according to the user's own needs or desires.

Eckert Jr. et al ('501) teaches each user can filter information in the collection according to the user's own needs or desires, see column 5, lines 13-24 for the benefit of providing information to the user of the commodity.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to allow each user to filter information in the collection according to the user's own needs or desires as taught by Eckert Jr. et al ('501) for the benefit of providing information the user of the commodity.

As per Claim 168.

Von Kohorn (592) further discloses the stored probes includes includes questions for respective users, see column 13, line 61 - column 14, line 20.

Allowable Subject Matter

11. Claims 55-56, 92, 97 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As per Claims 55 and 92.

Von Kohorn ('592) in view of Eckert Jr. et al ('501) further in view of Schoenbrun does not disclose:

units of the commodity comprise facsimile equipment and the user interface triggers the two-way interaction to occur on-line between the unit of the facsimile equipment and a vendor of the facsimile equipment.

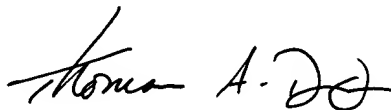
The claims that depend on the above allowable claims are allowable for the same reasons.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Thomas A. Dixon
Examiner
Art Unit 3629

June 5, 2003